EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JASON DOUGLAS, Plaintiff, -vs- THE WESTERN UNION COMPANY, Defendant.	Case No. 14 C 1741 Chicago, Illinois November 10, 2015 9:15 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE GARY FEINERMAN

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(Proceedings heard in open court:)

THE CLERK: 14 C 1741, Douglas versus The Western Union Company.

MR. SIPRUT: Good morning, your Honor. Joe Siprut and my colleague Ismael Salam on behalf of the class.

MS. LALLY: Good morning, your Honor. Kathleen Lally on behalf of the defendant.

THE COURT: Good morning. We're here on the plaintiff's motion for preliminary approval of a class action settlement. I know what the answer is, but I want to say it on the record. Is there anybody here, any putative class member or any potential objector, even though there's been no preliminary approval, here to address the motion?

There's nobody in the courtroom. Nobody's responded. The Court has not received any communication from anybody, any possible stakeholder who could have something to say about the motion, so we'll proceed.

I've reviewed the motion, and let me just ask just a few questions that occurred to me as I was going through the materials.

The recovery for the claimants is a per-person recovery. It's, I guess, at least theoretically possible to have done a per-call recovery. So, what went in to the decision to make it a per-person recovery as opposed to a per-call recovery? So, for example, somebody who got five

calls or five texts would have -- would get more than somebody who got only one.

MR. SIPRUT: Sure. One of the principal driving points was the fact that we were trying to work off of an all-in, non-reversionary cash framework as a starting point, which of course is one of the huge gulfs -- what was the word the other lawyer used a moment ago -- chasm in settlement negotiations. So, we pushed very hard for the all-in, cash, non-reversionary framework.

Once we got to that point after, you know, best efforts, that sort of helped everything else fall into place, the all-in cash framework, the pro rata based on the number of claims filed is basically almost a given.

There might have been a way to structure it so that mathematically people could say they got X number of texts or establish that they got X number of texts; but the point is that in order to be able to tell people, "This is the amount we think is going to be available. This is the amount that we think you're going to get," this was all really made possible only if you accept the premise that you have an all-in number and after all the claims are in, it's divvied up.

THE COURT: But couldn't you say -- instead of just having the denominator being the number of people, couldn't you have had the denominator being the number of calls, and then the claimants put in for a particular number of calls?

MR. SIPRUT: Again, not to say that that's theoretically impossible, but one of the issues in dispute was all the various subclasses. When we got into the heart of this case, it became apparent that when you peel away the layers, there were four or five different subclasses, as to which there were numerous defenses and arguments that each of the various subclasses was subjected to.

So, in the end, whether some of those messages would have been even actionable or not was one of the issues in dispute. And ultimately, once we got to the price that sort of built in all of those issues, we went for the broadest settlement class possible, which is anyone who has, you know, a potential claim is in.

But the sort of drawback to that -- not drawback, but the other side to that is that maybe that person only gets one remedy instead of zero, as opposed to the other theoretical alternative, which is that they get five.

So, I guess the short way of summing all that up is it was all priced into the settlement fund.

THE COURT: What -- do you have any thoughts on that?

MS. LALLY: Yeah. Your Honor, just briefly, I also believe looking at least initially at the class list that we put together, the vast majority of these are going to be one call to one number because there were opt-in text messages that the plaintiffs received. It was very unlikely, it

doesn't seem that it occurred very often to have multiple calls to that same number.

MR. SIPRUT: That's a good point. There have been some robo-call settlements that have come through here where these poor people get 14 calls while they're eating dinner and they're really upset. This was not really that kind of situation, so that was a factor, too.

THE COURT: I see. So, I'll just incorporate -- I'll say it now, and I'll incorporate it into my ruling. I'm satisfied that having a -- at least at this point at the preliminary stage, that having a per-person recovery is acceptable, as opposed to having a per-call recovery because the vast majority of the claimants will have had only one call; and then even if there were some who had more than one call, administratively, the game wouldn't be worth the candle in terms of hashing all of that out.

The second question I have is: What do you expect based on your experience the claim rate to be? What percentage of the class do you anticipate filing claims?

MR. SIPRUT: Yeah. I think in our papers, we estimated it at around 5 percent? I'm looking at my colleague because he's the notice expert around here, but we had a range of possibilities based on historical take rates and particularly settlements of this size, because obviously the take rate is going to be higher when there's more money

available and people are motivated when they might get $100 as opposed to 10. So, pricing all that in, I think the range we came up with was around 5 percent?

MR. SALAM: Yes, your Honor, we reached out to the administrator and tried to figure out levels at 1, 3, and 5 percent. Those were estimated take rates.

THE COURT: I see. And because this settlement is just a bit richer than some of the others, you would expect a higher take rate?

MR. SIPRUT: Hopefully, yes.

THE COURT: Do you have any thoughts on this?

MS. LALLY: I -- after speaking with the administrator, we did present the 1, which we think would be low, 3 middle, 5 on the higher end.. Though I will say the administrator has indicated based on other settlements that there -- it's not unusual to see a 7 or a 9 percent, particularly in this case where we will have the ability to do some -- mostly, I think, direct notice to the class, you do sometimes get a higher take rate there, and they wouldn't be shocked to see something in the 7 to 9 percent range.

THE COURT: All right. Speaking of notice, is it -- e-mail was mentioned and U.S. Mail was mentioned. Is U.S. Mail used only if e-mail fails, or are both used for everybody?

MR. SALAM: Yes, your Honor. So, the majority --

THE COURT: I'm looking at the notice expert.

MR. SALAM: The majority of the class -- for the majority of the class, we have actual mailing physical addresses. So, after talking with the administrator, we decided that we would issue direct notice via U.S. Mail to those for whom we have physical mailing addresses.

Now, however, there are a decent amount of class members who we do not have physical mailing addresses in our class list; however, we do have e-mail addresses. So, for those individuals, we're going to send e-mail notices.

THE COURT: And for the people -- for the folks for whom you have physical addresses, are you also going to send them e-mail?

MR. SALAM: No, your Honor. We're going to be sending just U.S. Mail.

THE COURT: Okay. And why shouldn't we use a belt and suspenders for the people that you have mailing addresses and e-mail addresses?

MR. SALAM: There's no reason I don't think that I could articulate that would explain why we shouldn't necessarily go belt and suspenders, but given our communications with the settlement administrator, we didn't think it was necessary to use both e-mail and mail notice.

MR. SIPRUT: Yeah, and I'll just add to that. I'm open to it. I've done it either way in the past. Sometimes

we cover the gamut, and certain people get blitzed from three different angles, belt and suspenders. Other people -- in other settlements, we've done it more like we've proposed here.

It's a tough call. I think the down side to doing the e-mail in addition to the U.S. Mail, aside from maybe an incrementally higher cost, which wouldn't be the only reason not to do it, but aside from that, I think it can be confusing sometimes. If people get the postcard and the mail -- or the e-mail, it can be confusing. People think, "Wait, isn't this the same thing? Didn't I already do this? Why am I getting this again?"

As to what percentage of people are deterred because of that confusion, it's hard to say; but I've gotten recommendations on both arguments, so, I can go either way on this one. And ultimately, although we proposed it this way after talking to the administrator, if the Court felt more comfortable with the other approach, I don't think any of us would try to resist that.

MS. LALLY: We would have no objection to doing both. We would note that there would be an incremental increase in settlement costs which obviously comes with it. I don't think we totally priced that out, so I'm not sure what that increase is off the top of my head.

MR. SALAM: No, your Honor, we have not spoken

about --

THE COURT: Right now, it's $240,000. Would you imagine that it would add more than $100,000?

MR. SIPRUT: No, it would probably be less than that, almost certainly less than that. So, we know standing here right now generally what that incremental cost would be; and if that were the only issue, I'd say we can do it. It's more just the sort of judgment call as to whether it's really better or not.

MS. LALLY: I do think, your Honor, to -- again, Mr. Siprut's point, there is a risk, I think, of duplicative claims being filed, which obviously will then take time for the administrator to also sort out, could lead to some class member dissatisfaction thinking that they aren't getting what they think they were due. But we would have -- we obviously want to provide it as robust as possible, so we are open to --

THE COURT: Okay. I understand there are two sides to the coin. I'd prefer that if there are physical addresses and e-mail addresses, that notice go out both ways to each person. Perhaps you could add some language to the class notice saying, "You may be getting notice by e-mail and by postcard. You can only make one claim." I think that would be simple enough.

And I'm kind of extrapolating from my own experience from before I was a judge. I have to imagine that for many

people when you get something in the mail, it looks like junk mail, and you just throw it out. And sending it by e-mail as well might get more people's attention, so I think the notice would be better.

And that's not based on any scientific research I've done. The sample size is very small from what I'm extrapolating, but I think -- I'd prefer that.

MR. SIPRUT: Sure.

THE COURT: And since you aren't objecting, I'm going to ask you to do that.

And then finally -- well, we'll talk about the attorney fees later.

So, I'm going to grant the motion for preliminary approval. The settlement is within the range of fairness and reasonableness. It's an $8.5 million all-in fund, so it's not a reversionary fund. The per-claimant recovery is sufficient. If everybody makes a claim, which isn't going to happen, it would be $10.00 per person. If 10 percent make a claim, which is really high, it will be around $100 per person. That's almost certainly not going to happen. So, we're looking at a per-claimant recovery of over $100, which is very robust.

And I know that statutory damages could be higher than that, but the defense -- the plaintiff, the named plaintiff and the class would face several defenses in attempting to litigate this case. There's -- they could --

their claims could be subject to arbitration. There's a consent defense. And then there's a defense on the merits as to whether Western Union used an ETDS.

So, given the possible defenses and the various ways that this case can go south for the plaintiffs, the recovery is reasonable. And I'm saying that preliminarily and not based on the full record that I'm going to have at the final approval hearing.

And class counsel did undertake enough discovery to evaluate the strengths and the weaknesses and make an informed decision.

The incentive award of $5,000 is reasonable. The amount allocated for notice and administrative expenses, which right now is $240,000 and it's going to go up because of my request on e-mailing and mailing, U.S. mailing, but still, it's going to be in the low 300s, probably; and for an $8-1/2-million fund, that's very reasonable.

For the attorney fees, I'm not deciding the attorney fees right now. When counsel files the motion to approve the attorney fees, make whatever arguments you're going to make. I also would like to have the information if I decide that I want to do a lodestar cross check. I'm not going to make it a lodestar -- I actually have the discretion to make it a lodestar recovery under the Seventh Circuit authority. I think it's very unlikely that I'm going to base the attorney

fee recovery on lodestar, but I do -- I would like to do a lodestar cross check just as part of the mix in deciding what the attorney fees ought to be.

And if you could also address in your -- and you can -- give me the information on the lodestar, and then make your argument as to why I ought not to consider it. And I may agree with you on that, or I may disagree with you on that. If I disagree with you on that legal point, then at least I'll have the information to be able to consider it. Or if you don't mind me considering the lodestar cross check, just submit it and don't make an argument that I shouldn't consider it.

And if you could also address the declining percentage method that at least some of my colleagues have effected in other recent settlements, I believe Judge St. Eve, and there may be a couple of others. I'm putting it on the table, and if you want to argue against it, that's fine. Tell me why it's inappropriate, either generally or in this -- in this particular case; or if you think it would be an appropriate way of going, give me a proposal as to what you think would be appropriate.

The class certification is appropriate in this case. There's just over 800,000 class members. All of the requirements of 23(a) have been satisfied. There's numerosity, typicality, adequacy, and common questions. And

23(b)(3) has been satisfied as well, as the common issues predominate over -- at least in the settlement context, the common issues predominate over the individual issues, and a class action is by far the superior method of processing this case.

The notice is sufficient as well, particularly given the modification that I've asked for. I think it's -- it's -- there's going to be direct notice for everybody for whom the parties have a physical address, and there's going to be e-mail notice for everybody for whom the parties have an e-mail address.

There's a settlement website. There's a toll-free number. The question -- the Q & A that's going to go with the notice is very clear. Even I was able to understand it. And the claims form is very simple and easily understood and easily filled out. It's not the kind of claims form that the Seventh Circuit has said is -- would tend to lead to a depressed claims rate. There's no incentive for either side to want that because it's not a reversionary fund. And just looking at it -- even if there were an incentive, I'd say, "Well, they fought the incentive," because this is a very clear and clean claims form.

So, for those reasons, I'm going to grant the motion for preliminary approval. We need to set a date, and you wanted five months from today?

MR. SIPRUT: Well, we have a schedule -- and thank you, by the way, your Honor, for granting the motion. Your points are all very well taken in terms of what we should be on the lookout for to address with our subsequent filings, and we'll do that.

And before I address your Honor's question about the schedule, I can't help myself, I just want to put one thing on the record, which is that further underscoring the Court's findings, which is we're pretty proud of the settlement because as our research indicates, to our knowledge, it's the best TCPA settlement in the country in terms of relief relative to class size.

So, I think we used the term apples-to-apples basis in our brief. If you just look at other large TCPA settlements, cash funds non-reversionary like this, and you calculate the amount of money per class member, ours is in first place in the United States; and frankly, second place is a distant second place. So, we're pretty proud of that, and we're grateful that the Court has granted preliminary approval.

With respect to the schedule, yeah, the schedule that we put together in conjunction with the notice plan that we have in mind gives us a timeline that would put the final approval hearing at around April -- early April, April 7th, to the day, although, subject to the Court's schedule and

availability.

But it was a -- I would say, you know, not a super aggressive schedule in terms of how fast we're trying to rush to get things done; but by the same point, it's not terribly, you know, elongated, either. It's probably right in the middle, from what I've seen for a case of this nature with this kind of notice plan.

THE COURT: Okay. So, we'll set a date, and I'm going to want the motion for final approval and the motion for attorney's fees to be submitted sufficiently in advance of the final approval hearing where if there are objectors, they have a target to shoot at.

MR. SIPRUT: Yeah, we -- our proposed schedule proposes on that point that our fee motion be filed no later than 14 days prior to the objection deadline, which is not only well in advance of the final approval hearing, but it's still 14 days prior to when objectors can still be filing things. And that's consistent with some of the recent Seventh Circuit decisions that have expressed concern about that particular point.

So, this way, if we file our motion for attorney's fees 14 days before the objection deadline, objectors, if there are any, can say what they're going to say; and then when we subsequently file our motion for final approval, we can then respond to the objections.

THE COURT: Okay. And those dates are all in the proposed order?

MR. SIPRUT: Yes, your Honor.

MS. LALLY: Yes, they are.

THE COURT: All right. Good. Jackie?

THE CLERK: April -- how much time do we need?

THE COURT: Well, it will depend on how many objectors we get, if any.

MR. SIPRUT: Fingers crossed.

THE COURT: As far as you're concerned. I don't care how many objectors there are. Why don't we -- do we have trial that week?

THE CLERK: Yes.

THE COURT: And the next week?

THE CLERK: Yes.

THE COURT: And the next week?

THE CLERK: Yes, yes.

THE COURT: How about Friday the 8th; and we'll just count on that trial lasting only four days, and I don't think it will last any more than three. And I'll give you all day. We'll start at 10:00 o'clock, and maybe we'll be done by 11:00. Maybe we'll be done by noon. We'll see.

MR. SIPRUT: Sounds good.

MS. LALLY: Thank you, your Honor.

MR. SIPRUT: Thank you, your Honor.

THE COURT: Anything else? Thank you.

(Which were all the proceedings heard.)

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/Charles R. Zandi — *November 13, 2015*

Charles R. Zandi
Official Court Reporter

Date